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Author(s): Haim Gerber

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JEWES AND MONEY-LENDING IN THE OTTOMAN EMPIRE

By HAIM GERBER, Hebrew University

IT IS GENERALLY assumed that during the Middle Ages and afterwards Jews everywhere were engaged in money-lending as their main occupation. However, this does not appear to have been the case in the Ottoman Empire. It would seem that in this state money-lending was of far lesser importance than elsewhere. The false impression may have been due, at least in part, to a reliance on Hebrew sources alone. These in themselves are extremely important, but for such a subject they reveal only one side of the coin.

We shall now first analyze the internal Jewish sources, and will then show how substantial parts of this picture are given new meaning in the context of the surrounding society.

It must be emphasized at the outset that money-lending by Jews in the Ottoman Empire was not rare but rather quite frequent. This is already apparent from the very few theoretical allusions to interest-taking by Rabbis who lived in the Ottoman Empire. Such allusions as were made must be viewed against their proper background. Originally Jewish law strictly forbade interest-taking, although a number of Biblical passages left room for doubt as to whether this total ban applied equally to non-Jews.¹

An entirely new page in the Jewish involvement in money-lending commenced during the "high" Middle Ages in France and Germany in particular, when political and economic factors increasingly pushed the Jews into money-lending as almost their sole source of sustenance.² Some of the greatest authorities on Jewish law lived in these areas at that time, and the fact that they tended to accept various compromises with the realities of the day had a great influence on the Rabbis of the subsequent

¹ See H. H. Cohn, "Usury," in M. Elon, ed., *The Principles of Jewish Law* (Jerusalem, 1975), pp. 500ff.

² *Ibid.*

centuries. The growing leniency toward interest-taking held true for Jews and non-Jews alike. It would seem that the normative approach of the Rabbis of Ottoman Jewry toward interest-taking was that it was acceptable as long as it was practiced in an indirect fashion and was disguised under some sort of legal fiction. Direct interest was still frowned on and was even strictly forbidden. A good example is a case brought before R. Joseph ben Leb, Rabbi of Salonica in the 16th century, who categorically forbade such a practice, even if used for the support of orphans.³

But wherever interest-taking was a little less than plain and undisguised, we find a large measure of leniency. Thus, Rabbi David ibn Abi Zimra of Egypt ruled, following Maimonides and other scholars of his generation, that the custom of leniency had become widespread.⁴ Rabbi Moses di Trani of Safed, although he forbade a financial device that was almost equivalent to direct interest, openly sought ways to legalize indirect interest-taking when he thought it necessary for his community.⁵ Rabbi Hayyim Benveniste of 17th century Izmir issued a responsum to a question which specifically asked how to put cash to work without at the same time breaking the prohibition of interest-taking. He suggested stipulating a fine for delay in the repayment of a nominal loan.⁶

One might thus conclude that the general opinion prevailing among the Jews in the Ottoman Empire was that interest-bearing transactions were admissible as long as the charging of interest was indirect.

Against this general background we must first analyze one special and in certain respects confusing case. In the economic history of the Jews in the Ottoman Empire, especially in relation to money-lending, Jerusalem constitutes an exceptional case. Here Jews were intensely involved in money-lending, and it is probably because this fact has attracted greater research effort that some scholars have tended to view the case of Jerusalem as

³ Joseph ben Leb, *Responsa*, I (Jerusalem 5719), question 49. The *Shulḥan ʿAruk* itself (in a way, of course, a 16th century Jewish-Ottoman product) strongly denounces interest-taking in any form (Yoreh Deʿah, 160-77).

⁴ David ibn Abi Zimra, *Responsa* (Warsaw, 5642), question 493.

⁵ Moses di Trani, *Responsa* (Lwow, 5621), part 2, question 271.

⁶ Hayyim Benveniste, *Baʿe Ḥaye* (Salonica, 5548-51), Yoreh Deʿah, question 185.

the model for the whole of Ottoman Jewry.⁷ On closer inspection, however, it becomes clear that this was not the case. Jewish money-lending in Ottoman Jerusalem consisted mainly of making loans to the Christian monasteries in that city. These monasteries were traditionally in the habit of drawing heavily on the local Jewish and other money-lenders. It is evident that the essence of the relationship between the monks and the Jews was the monks' conspicuous demand for loans.

Already in the 17th century we find from the lists of expenses of the Franciscan monastery that Jews were among its most important creditors,⁸ and that the sums involved were truly substantial. We do not know exactly when and how this pattern of relations originated; it certainly flourished during the 17th and 18th centuries. It is amply described in contemporary Jewish sources, which attest to the fact that this business of lending to the monasteries became quite institutionalized; people deposited sums of money, for which they received special certificates, called *polisa* in the Hebrew sources.⁹ These documents, although they bore individual names, were transferable at will by simply changing the name of the bearer.¹⁰ This fact greatly enhances the likelihood that there was a substantial money market which involved large sums and was fairly regularized over extended periods. Indeed, the monasteries seem almost like banks, only it is fairly evident that they themselves did not lend these funds but rather purchased with them various products and services. For the Jewish creditors this made no difference—here was an institution that could be relied on for extended periods to be in constant need of loans, one which provided an unfailing source of income

⁷ See E. Bashan, "A Document Dated 5384 (1624) concerning a Dispute on Lending Money to Christians in Jerusalem," *Chapters in the History of the Jewish Community in Jerusalem*, II, (Jerusalem, 1976) (Hebrew), 77-96, and bibliography cited there.

⁸ See A. Arce, *Documentos y Textos*, I (Jerusalem, 1970), p. 257. N. Schur has assembled many extremely rare references which attest to the fact that Jewish involvement in lending money to the monasteries was a remarkable phenomenon. See his "The Jewish Community of Jerusalem in the 16th-18th Centuries According to Christian Chronicles and Travel Descriptions," in A. Cohen, ed., *Jerusalem in the Early Ottoman Period* (Jerusalem, 1979), pp. 378-79. See also Eliezer Ben Arha, *Responsa* (Jerusalem, 1978), questions 1; 13(b).

⁹ Ben Arha, *op. cit.*, question 13 (b).

¹⁰ *Ibid.*

to Jews who had closed their businesses in various places in the Diaspora and had come to Jerusalem to live on a small budget. As is well known, a large proportion of the Jews in Jerusalem during these centuries were old men who had come to die in the Holy City.¹¹ All this is eloquently expressed in the following citation from a 17th century Hebrew responsum:

In Jerusalem . . . there are monks who live here as of old, and every thirty years others come from Rome while the former go back where they had come from. And they take money on interest from Muslims and Jews until they receive money from the lands of the Christians. They then pay their debts. When they need money again, they will obtain it, for their dealing is done in fairness. And in it [Jerusalem] widows and orphans take shelter, for everyone who has a hundred piasters takes it to the monks. Merchants also give them money on profit, for everyone who has come to live in it [Jerusalem] did so on that ground. For in this city there is no other sustenance or profit whatsoever . . . For were it not for this wherefrom they will derive their profit, will it be from the stones and rocks of the Mount of Olives?¹²

It is thus evident that the unique pattern of Jewish money-lending in Jerusalem was the outcome of two factors: the pressure of the Christian monasteries for loans on the one hand, and the fact that the Jewish community of Jerusalem lacked a normal economic structure on the other. These two factors inevitably created a situation in which money-lending became the Jews' main sustenance, but this situation was far from representative of other Jewish communities in the Empire.

The phenomenon of lending on interest to the monks in Jerusalem provoked some bitter legal controversies among Jewish scholars.¹³ Some Rabbis resented this open money-lending, and it seems that what bothered them most was its undisguised form. But these Rabbis were in the minority; the opinion of most

¹¹ See J. Barnai, *The Yishuv in Palestine During the Years 1740-1777 and its Connections with the Diaspora* (Ph.D. dissertation, Hebrew University in Jerusalem, 1975, pp. 130-31).

¹² Ben Arha, *loc. cit.*

¹³ Bashan, *op. cit.*

Rabbis was that the practice was permissible, if only because it was almost the sole sustenance of the Jerusalem community.¹⁴

It must be noted that such an open and direct discussion of the permissibility of interest is known to have taken place only in connection with Jerusalem. This further reinforces the conclusion that no other Ottoman Jewish community was engaged in money-lending on such a large scale.

Hebrew responsa from the Ottoman period contain many references to money-lending, but their number is not large enough to allow us to form an idea about the intensity of Jewish involvement in this occupation. Moreover, in the overwhelming majority of cases it is impossible to judge from the wording of the documents whether the loan was given professionally or was merely a chance transaction. And lacking an exact quantitative method of measurement, the only alternative is the degree of professionalism of those Jews who were engaged in this occupation.

However, in several of the cases cited in the responsa literature (as well as in the Turkish archives) it does seem possible to arrive at some definite conclusions.

Undoubtedly there was a large number of loans, but most of them were made in the ordinary course of business. A chance example is the case of a Jewish merchant resident at Sidon in the 16th century, who had an agent in Acre, and who lent money to merchants there.¹⁵ In other cases it may have been an ordinary loan, made on a chance basis. This may have been the case of the Jew who lent 9,000 *akçe* to another Jew.¹⁶ Very probably this was also the case of the two Jews who lent the large sum of 1,000 piastres to a Muslim merchant in Izmir in the middle of the 17th century.¹⁷ Other examples are more dubious, and some of them may in fact contain references to more professional money-lending. Again a chance example may be cited from 17th-century Aleppo,¹⁸ about a Jew who lent a sum of money to a non-Jew, in lieu of which he received from him a bill of exchange, called a

¹⁴ *Ibid.*, pp. 77 ff.

¹⁵ Moses di Trani, *op. cit.*, question 151.

¹⁶ Baruch Kalai, *Maḳor Baruk* (Izmir, 5419), question 52.

¹⁷ Hayyim Benveniste, *op. cit.*, Hoshen Mishpat, part A, question 82.

¹⁸ Josiah Pinto, *Nibḥar mi-Kesef* (Aleppo, 5629), question 115.

polisa in the Hebrew document. This latter man transferred this *polisa* to another Jew, who continued for years afterwards to be the debtor in this case. The pattern of relations set forth here is quite sophisticated. It is possible that the latter of the two Jews mentioned in the document was a professional money-lender, but we cannot be sure of it.

A quite sophisticated relationship is disclosed in another document in which a Jew has lent a large sum of money to a non-Jew and has accepted a collateral in the form of cloth.¹⁹ He later sold that collateral to merchants who wished to resell the cloth in their shops.

Part of the material at our disposal does indicate that some Jewish businessmen in the Ottoman Empire may well have been engaged in money-lending on a professional basis. Thus in one document we find a Jew giving a sum of money to his son-in-law, "in order that he may lend it to non-Jewish merchants."²⁰ Similarly, two Jewish residents of Izmir received from relatives 200 Venetian gold pieces in order to do business with the money, including money-lending.²¹ In another case we read of a Jew who received from someone a sum of money in order to lend it to non-Jews.²² In yet another case we hear of a deceased Jew whose wealth was held by way of loans by non-Jews.²³

It seems that in lending to non-Jews, especially to Muslims, Jews were not inhibited by their inferior legal status of *dhimmīs*. This is shown, for example, by a case from 17th-century Belgrade, in which a Jew caused a Muslim debtor to be confined for a long time in prison for failing to pay his debt.²⁴

Over and above the documents cited there are clear indications of Jews acting as professional money-lenders. In one such example we find a complex relationship between an agent on the one side, and a small Jewish businessman, some prospective borrowers, and a professional money-lender on the other: the latter supposedly was unwilling to deal with the small sums

¹⁹ Moses di Trani, *op. cit.*, question 82.

²⁰ Moses Benveniste, *Pene Mosheh*, II (Istanbul, 5479), question 50.

²¹ Solomon ha-Levi, *Leb Shelomoh* (Salonica, 5568), *Hoshen Mishpat*, question 82.

²² Judah Kazin, *Ro'e Yiśra'el* (Jerusalem, 5664), question 23.

²³ Solomon Amarilio, *Kerem Shelomoh* (Salonica, 5479), question 38.

²⁴ Joseph Almosnino, *Edut bi-Yehosef*, I (Istanbul, 5471), question 29.

demanding by the public.²⁵ In this document all the parties are plainly called Jewish. In another document, this time from the Turkish archives, we hear of a Jew who has lent the sum of 90,000 *akçe* to a village in the Balkans for the express purpose of paying their taxes.²⁶ One must suppose that a loan made to an entire village would have had to be negotiated by a professional money-lender.

Professional Jewish money-lending specifically to non-Jews is apparent in an extremely revealing document from 18th-century Rhodes.²⁷ The problem set forth in this document is the following: some Jews had lent money on interest to a high Turkish official who for a long time failed to repay it. The Jews, having lost all hope of repayment, demanded that this sum be deducted from their tax assessment. The Rabbi denied their request, and explained that to grant it would cause grave harm to the community, for "most of our living nowadays comes from lending money to non-Jews . . . and here in Rhodes it is customary to take into account for tax assessment all credits and loans, and most of what is written down in the tax assessment register is of this type."²⁸ Interestingly enough, this is confirmed by a responsum from Rhodes by R. David ibn Abi Zimra, in which we are told about Jews "selling" loans to "Muslims in villages."²⁹

In the last-mentioned document we have a loan by Jews to a high Ottoman official. There are in our sources some other similar documents which suggest that some Jews may have concentrated on that kind of business. Thus in one Turkish document we find a Jew who had borrowed money on behalf of the Ottoman governor of Basra (late 16th century).³⁰ Similar extremely interesting relationships between an Ottoman governor (*paşa*) and two Jewish lenders are described in another document, about two Jews who had pooled their resources in a partnership for the purpose of lending to the governor the

²⁵ Joseph di Trani, *Responsa*, I (Lwow, 5621), question 109.

²⁶ Başbakanlık Archive, Mühimme Defterleri, vol. 80, No. 900 (an order dated 1615).

²⁷ Moses Israel, *Maš'at Mosheh*, II (Istanbul, 5497), question 74.

²⁸ *Loc. cit.*

²⁹ Ibn Abi Zimra, *op. cit.*, question 890.

³⁰ Başbakanlık Archive, Mühimme Defterleri, vol. 73, p. 41 (order dated 1595).

enormous sum of 13,000 piastres.³¹ At the same time one of the partners concluded a private transaction with the same governor, by the terms of which the Jew was to pay the *paşa*'s debts as they fell due. At this point we must enter a little deeper into the details of the matter, since it offers a hint about a more general phenomenon. The documents tell us that the Jew had "bought" a *sebeb-i tahrir* document addressed to the *paşa*. In order to understand what is meant by this we must recall how the Ottoman Empire was financially administeed. The central government calculated each year the expected revenues and expenditures. It then provided those responsible for the various expenditures with payment orders, each addressed to those responsible for the various types of revenue.³² These orders were called *sebeb-i tahrir*, after the first words of the document. In our document the *paşa* was ordered to pay 6,000 piastres intended for salaries of the guards in a certain fortress. What happened, in fact, was that the Jew, on behalf of the *paşa*, paid the entire sum in one lump, and then charged it as a loan to the latter. The interesting point is that the document is worded in such a "telegraphic" way that to understand it one must be thoroughly familiar with the working of the Ottoman administration. One must assume that all those involved possessed such an understanding.

The documents cited thus far show that Jews in the Ottoman Empire did engage in money-lending, but we never come across anything like an institutionalized phenomenon: we do not find banks or anything similar. What is more, we rarely come across the figure of the *shulḥani*, the money-changer, who is in a way the forerunner of the bank. An extremely rare occurrence of this term is in a 16th century Egyptian document which deals with trade between Cairo and Salonica.³³ A Salonican Jewish merchant came to Egypt to buy merchandize, and deposited his money with Jewish *shulḥanim* (money-changers), possibly with the intention of paying for his purchases by some kind of cheques

³¹ Moses Amarilio, *Debar Mosheh*, II (Salonica, 5502), Hilkot Shuttafim, question 57.

³² See S. Shamir, "The Syrian Hac as a Factor in the Rise of the *Ayan* and *Ulema* of Damascus," in G. Baer, ed., *The Ulema and Religious Problems in the Muslim World* (Jerusalem, 1971), p. 65, n. 6.

³³ Solomon ha-Kohen, *Responsa* (Salonica, 5346-411), part 4, question 95.

drawn on these quasi-bankers. To quote from the document, "and when he arrived in Egypt, Hanoch [the merchant] handed over his box with all the sums of money in it to the *shulḥanim*, the known partners in Egypt, as is the custom of all merchants who go to Egypt, viz., to hand over their bags of money to the money-changers; by cheques drawn on them they later pay for the fabrics they buy."

Thus Jews in the Ottoman Empire undoubtedly did engage in the trade of money-lending. At the same time the responsa literature abounds in documents showing Jews in the position of indebtedness to non-Jews. In one document cited by Rabbi Moses di Trani we read of "Reuben who handed over a collateral to Simeon and asked him to obtain for him a sum of money on interest from non-Jews for this collatera."³⁴ This pattern of Jews borrowing money on interest is still more distinct in the following document, which deserves quoting more fully:

Reuben has detained in his hand assets of Simeon, for a debt which Simeon owed him. He then sent Levi, his agent, to pawn these assets with a Turk [*Tuggar*], and Levi pawned them for two hundred piastres. For this is what Turks do when they lend money on interest, viz., they take a collateral. Thus Reuben sued Simeon on this account, and the [Jewish] judges ruled that Simeon must hand over to Reuben, within three months, two hundred piastres, and Reuben must be compelled to reclaim the assets from the Turk.³⁵

Furthermore, our sources contain indications that sometimes Jews were up to their ears in debt to non-Jews. This is clear from a document which again deserves a partial translation:

Reuben, who owed to powerful Turks the sum of seventy-five thousand *akçe*, and was unable to find in his city a loan on interest to repay his creditors, came to another city . . . where he found Levi, his friend, whom he begged to ask for him from Turks of his acquaintance a loan for three months' time, and to give them as interest whatever he might see fit.³⁶

³⁴ Moses di Trani, *op. cit.*, part 2, question 186.

³⁵ Abraham di Botton, *Leḥem Rab* (Cracow, 5642), question 8.

³⁶ Isaac Adarbi, *Dibre Ribot* (Venice, 5347), question 331.

Now it is quite unlikely that Jews would have made such strenuous efforts to borrow from non-Jews on such conditions had it been possible for them to borrow from Jewish money-lenders. This conclusion is confirmed by an interesting document cited in the responsa of Rabbi Aaron Lapapa (Izmir's Rabbi in the first half of the 17th century). We read about a "non-Jew who was lending money on interest to Jews, on the security of gold and silver coins, houses, and shops, and sometimes on the security of a surety only."³⁷ The Jew in our document owed this man 1,100 piastres, and when the lender died he was able to bribe the judge in charge of dividing the estate among the heirs, to tear out the two pages in the lender's register where his debt was recorded. In this case the existence of the register suggests that the lender in question was a professional, and that he was in the habit of lending to Jews. Rabbi Samuel di Medina of Salonica cites also the case of a non-Jewish money-lender who lent money to Jews and used a special copybook for a record.³⁸

In another case Rabbi Moses di Trani, in one of his responsa, described a system which he himself devised to extend credit to needy Jewish cloth makers in Safed in the 16th century. He reasoned that one should not be too harsh here in applying the strict prohibition of interest, for unless something was done to find support for these people, "they would be forced to borrow from non-Jews on interest of one hundred percent."³⁹

One of the indications that Jews in the Ottoman Empire frequently had recourse to non-Jewish money-lenders is the fact that they were to a certain degree well versed in the Ottoman customary law relating to interest. Thus in one document we find a Jew addressing the Şeyhülislam (head of the religious institutions of the Empire) and asking him for a legal opinion (*fetva*) in relation to this law.⁴⁰

Moreover, at least on one point it may be suggested that the Ottoman customary law of interest impinged on the law of the Jewish community. This applies to a so far little-known customary arrangement called in Ottoman terminology *istiğlal*, a term which I have not so far encountered in the Hebrew sources.

³⁷ Aaron Lapapa, *Bene Aharon* (Izmir 5437), question 43.

³⁸ Samuel di Medina, *Responsa*, Yoreh De'ah, question 64.

³⁹ Moses di Trani, *op. cit.*, question 271.

⁴⁰ Hayyim Benveniste, *op. cit.*, Hoshen Mishpat, I, question 225.

Istiğlal as an institution is a legal innovation of the Ottoman period, the essence of which is a loan on interest which includes a mortgage,⁴¹ the whole transaction disguised as an ordinary sale of a piece of real estate. What takes place in practice is the following: A lends a sum of money to B, the sum being construed as the price of a piece of real estate (a house, for example). This house is transferred by B to A, but immediately thereafter given back to B for a rental (which is in fact the interest). If after a year B pays his debt, he gets back the ownership of his house. If he fails to do so, the ownership passes in perpetuity to A.

This system of lending money on interest (on which we have some further points to note below) was very widespread in the Ottoman Empire,⁴² and seems to have penetrated thence into Jewish society and Jewish law as well. One gets the strong impression that such a system was not known in Jewish law prior to the 16th century. It is mentioned neither in the basic manuals of Jewish law⁴³ nor in the chapter on interest in the *Shulhan ʿAruk*, although some arrangements similar to the *istiğlal* are mentioned there.⁴⁴

One finds in Hebrew responsa books a kind of *istiğlal* which has not so far been traced in Ottoman court records. This is *istiğlal* of movables, while above we have described *istiğlal* of real estate. As will be shown below, jewelry also seems to have been used as collateral, and in this case it was evidently handed over by the borrower to the lender; consequently interest would have to be paid directly. Since such an arrangement could not be camouflaged, it is possible that its function in regard to movables was to facilitate pawnbrokerage, a system not known either to orthodox Islamic law or to Ottoman law. Instead of pawning the asset, the borrower "sold" it to the lender. Some Jewish authorities of the 16th century held that this type of transaction was

⁴¹ In classical Islamic law the term *istiğlal* had no connection to mortgages (see J. Schacht, *An Introduction to Islamic Law* [Oxford, 1966], p. 137). As against this, in Ottoman Turkish it has the following meaning (according to Redhouse's dictionary): "A mortgaging (a house or estate) so that the creditor receives the rent thereof until the mortgage is redeemed."

⁴² See H. Gerber, *Society and Economy in an Ottoman City: Bursa 1600-1700* (forthcoming), chap. 7.

⁴³ See, for example, Asher Gulak, *The Principles of Jewish Law*, 1 (Jerusalem, 1967) (in Hebrew).

⁴⁴ Joseph Karo, *Shulhan ʿAruk*, Yoreh Deʿah, 160-77, and especially 164.

tantamount to breaking the prohibition against usury, and expressly disallowed it. Thus, Rabbi Moses di Trani says in one responsum:

We have forbidden everything which leads to violation of the prohibition of interest, viz., selling houses and things seemingly in full sale, but really with the intent of giving them back. And although legally there is no condition and the transaction is complete, nevertheless the custom has become widespread to return the properties.⁴⁵

And Rabbi Joseph di Trani says in one of his responsa:

Concerning the houses or objects of gold and silver, it is well known that whenever he [the borrower] wishes, he may pay back the money and take back his objects. This is plain interest [and is forbidden as a matter of course].⁴⁶

The main question concerning the validity of the *istiḡlal* type of transaction is whether the “sale” is real or fictitious. The two Rabbis cited above considered it complete, because otherwise the arrangement would have entailed plain interest. Notwithstanding this opinion, it seems that reality prevailed, and the arrangement did not disappear. This is apparent from some documents contained in the responsa of Rabbi Isaac ha-Kohen of Salonica, dating from the latter part of the 18th century.⁴⁷ His opinion is authoritative at least on a historical basis. Not only does he make it quite clear that the arrangement was widespread in his time but he also states explicitly that he himself engaged in this business.⁴⁸

The question with which he deals is the old one: is or is not the sale to be considered final? Isaac concurs with former Rabbis in that the sale must be considered final. But they held that *in reality* the custom was to view it as temporary, and they therefore forbade it. Isaac, however, seems to have viewed it as part of life and therefore tried to reconcile it with the Law.

⁴⁵ Moses di Trani, *op. cit.*, question 271.

⁴⁶ Joseph di Trani, *op. cit.*, question 23.

⁴⁷ Isaac ha-Kohen, *Ohel Yishak* (Salonica, 5561) Yoreh De'ah, question 15, 16; Hoshen Mishpat, question 88.

⁴⁸ *Ibid.*, question 88.

The problem which emerges from the documents⁴⁹ is that if the sale is really final, there is no way to make the lender return the collateral, whereas if the sale is not final, we are dealing with plain interest. Isaac ha-Kohen came up with the interesting conclusion, so it would seem, that the sale is both final and reversible at the same time. It is final because this is what most former Rabbis had held, and because this is the only way in which the "trick" could pass as legitimate. But Isaac found that there was no fear that lenders might retain the collaterals. This was totally against the customary law prevailing in the Empire, "for this suits those who engage in this business . . . We have never hear of, nor seen, any of them wishing to retain a collateral for no reason or excuse."⁵⁰ In another place he says that it is natural for every lender to think that "if I retain the collateral for myself, no one will come to me to sell [=to borrow]; everybody will run away from me as if I were a snake."⁵¹

Another reason for regarding the "sale" as complete and final is that it ensured some sort of balance between the interests of the lender and those of the borrower. Suppose, for example, that there is some unrest caused by news of an imminent devaluation of the coinage. This may cause the lenders great damage, says Isaac, for borrowers will rush to reclaim their collateral even if they still need the money.⁵² Thus, Isaac goes on, if the lender has a good excuse, he can (the opposite custom notwithstanding) retain the collateral for a certain period, depending on the circumstances. But he can be relied upon to do this only in extreme circumstances and for a short duration, so as not to compromise his reliability.

This is, then, the *istiğlal* type of contract as reflected in the Rabbinic sources from the Ottoman Empire. Almost without a doubt it is a direct derivative of an Ottoman-Muslim institution, and it seems that here we have a rare example of the legal influence of Ottoman law on Jewish law. From the socio-economic point of view it probably means that Jewish money-lenders in the Empire were the pupils of Muslim money-lenders.

⁴⁹ See above, note 47.

⁵⁰ *Ibid.*, question 88.

⁵¹ *Ibid.*, question 16.

⁵² *Ibid.*, question 88.

We thus find that the evidence marshaled so far, although quite revealing in certain aspects, remains in others hopelessly ambiguous. In other words, many documents indicate widespread Jewish involvement in money-lending, but many others point in the opposite direction. All this information, however, takes on a substantially different meaning once we place it against the background of the credit institutions in the Ottoman Empire in general.

In order to understand fully the functioning of credit in Ottoman society, we must investigate it on two different levels, in theory and in practice. It might be claimed that the theoretical level is irrelevant in a study which purports to deal with economic history. But this is not the case here. For in an Islamic society, as in any other, it is important to investigate the tension (or harmony) which prevailed between religious law and real life. The degree to which a certain field of reality is able to exert its influence on the "eternal" religious law may reflect the strength of the relevant social need. The Ottoman Empire is a classic case with which to test this question, for in it the validity of religious law remained unshaken, while the socio-economic conditions were far removed from what they were when the interest prohibition came first into being.

The Islamic prohibition of interest is an old one, going back to the Koran itself.⁵³ Originally the prohibition seems to have been applied only to direct interest on loans. Only later did it come to be applied to profits from commerce as well. Notwithstanding this prohibition, it is evident that lending money on interest did take place. Legal ways were developed to evade the prohibition by means of various "tricks" which were intended to conceal the fact that interest was in fact charged.⁵⁴ Nevertheless, it does seem evident that the taking of interest, with or without using a "trick" (*hīlah*), was considered not in accord with the code of behavior of a good Muslim. Consequently it seems that the prohibition of interest was, in classical Islam, effective to a substantial degree.⁵⁵

⁵³ On the prohibition of interest in classical Islam see J. Schacht, "Riba," in *Encyclopaedia of Islam* (1st edition).

⁵⁴ See, for example, S. D. Goitein, *A Mediterranean Society*, I (Berkeley and Los Angeles, 1967), index, under "loans," which leaves no doubt that the classical Islamic world made extensive use of interest-bearing loans.

⁵⁵ Thus Goitein, when speaking about a clear case of interest charging brought to a Muslim court, adds immediately, "Such a flagrant breach of Jewish (and, of

There is reason to believe that in the Ottoman Empire the approach toward interest was much more liberal than in classical Islam. This found many expressions. Among them is the appearance of new credit institutions unknown to classical Islam. The first such example is the appearance of what may be called cash-*wakf*, that is, a religious endowment in which the capital (which in an ordinary *wakf* is a piece of real estate) is a sum of money, and the proceeds are simply the interest earned by it as a loan.⁵⁶ Such an endowment is explicitly disallowed by classical Islamic law. It was, therefore, unknown to classical Islam, nor was it known in any form in Byzantium.⁵⁷ The first example of it that has so far come to light is from 15th century Anatolia.⁵⁸ It is, therefore, quite probable that this type of *wakf* appeared in the early days of the Ottoman Empire.

It seems perfectly clear that after a protracted and heated discussion of the topic the overwhelming majority of Ottoman jurists accepted the cash-*wakf*, notwithstanding the fact that it legalized the free charging of interest.

We have already dwelt on the fact that one of the more frequent systems of money-lending in the Ottoman Empire was the so-called *istiğlal*, which involved a loan secured by a mortgage. Financially this system must have been more sophisticated than any other system of money-lending known in classical and post-classical Islam. It is, therefore, important to note that it was extremely popular with the public. Ottoman court records are replete with such documents, and manuals intended for court clerks devoted special chapters to this institution.⁵⁹

course, also Muslim and Christian) law has been found thus far only once in the record book of a judge. One wonders, however, whether such arrangements were not made out of court and even without the knowledge of the authorities." (Goitein, *op. cit.*, p. 225).

⁵⁶ On the cash *wakf* in general see J. E. Mandeville, "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire," *International Journal of Middle East Studies*, 10 (1979), 289-308; Ö. L. Barkan and E. H. Ayverdi, *Istanbul Vakıfları tahrir Defteri 953 (1546) Tarihli* (Istanbul, 1970), introduction; Geber, *op. cit.*, chap. 7.

⁵⁷ Mandeville, *op. cit.*, p. 290.

⁵⁸ *Ibid.*

⁵⁹ Dabbag-zade Numan Efendi, *Tuhfe-i Süküük* (Istanbul, 1248), pp. 115 ff.

The field of money-lending in the Ottoman Empire is associated with some specialized concepts, and we may learn something from a discussion of them. The transactions which include lending on interest are called in our sources *muamele-i şariyye* and *istirbah*.⁶⁰ These are, of course, Arabic words, but in Turkish they have assumed new meanings not used in Arabic,⁶¹ namely interest-bearing loan.⁶² It seems therefore that the new meanings were added only in the wake of the establishment of the Ottoman Empire, and that these new meanings were known only in the areas of Turkish civilization. The term *istirbah* developed so far in meaning that it often seems to be a legitimate synonym for the loathsome *riba* ("interest" proper).⁶³ Thus it seems that in the Ottoman period the use made of terms connected with interest-taking was much less inhibited than before, which is possibly another indication that money-lending was, if anything, more widespread.

In fact it must be noted that the Ottoman government itself, through its secular laws (*kanun*) considered interest-taking as perfectly legal, provided again that it was termed something other than *riba*. Thus the classic criminal Ottoman code contains this article:

⁶⁰ These terms occur frequently in documents relating to money lending. See Gerber, *op. cit.*, chap. 7.

⁶¹ In Arabic they mean, respectively, "a transaction in accordance with the *sharī'ah*", and "profit seeking." In no Arabic dictionary, classic or modern, are these terms connected directly to interest-bearing loans.

⁶² Thus, Redhouse's dictionary gives for *istirbah*, "an asking or borrowing (money) on interest," and for *muamele* (among other meanings), "interest on money."

⁶³ Thus cash *wakfs* specify that money should be lent out for "gain" (*istirbah*) of 10% per annum. We find the same use of *istirbah* in other places and times, probably with some sort of connection to the Ottoman usage. Thus in the 19th century Mecca, where lending money on interest was extremely popular, one of the ways of getting around the prohibition was simply to call it *istirbah* (see C. Snouck Hurgronje, *Mekka in the Latter Part of the 19th Century* [London, 1931] pp. 4-5).

In regard to changes in the approach toward interest among the Shiites in Iraq, J. Berque has this to say: "Interest itself, that taboo of taboos, is admitted . . . only it is no longer called by name . . . but 'gain', *rahḥ*, *istirbah* 'pursuit of gain,' and the whole matter remains perfectly harmless." J. Berque, *The Arabs* (London, 1964), pp. 63-64.

And persons who make [loan] transactions in accordance with the *sharia* shall not be allowed [to take] more than eleven for [every] ten [pieces of money lent].⁶⁴

This extremely liberal approach toward interest-bearing loans is fully corroborated by the practical side of the issue, that is, the credit institutions in practice. These must have been developed further than ever before in Islamic history. Thus in the central Anatolian town of Kayseri, which was studied by R. Jennings, it was found that lending money on interest was extremely widespread. At the same time credit institutions were not particularly developed: there were no professional money-lenders and no cash *wakfs*.⁶⁵ These two institutions did, however, exist in the western Anatolian city of Bursa.⁶⁶ Almost all the citizens of that city were to a certain degree involved in credit transactions. In thousands of estates of people who died in Bursa during the 17th century it was found that almost everyone borrowed or lent money on interest. Small wonder that in this city there grew up a group of professional money-lenders, some of whom may have lent out money to over a hundred people at one time.

The cash-*wakfs* were extremely popular and widespread in Bursa. In a rare survey of such institutions that has survived, no less than 370 of them are listed,⁶⁷ in a city of about 25,000 souls. This is undoubtedly an extremely impressive number, which goes far to show their great popularity among the lower classes as suppliers of cheap credit. Nor was Bursa exceptional. There are quite clear indications that Istanbul⁶⁸ and Edirne⁶⁹ were no less developed in this respect.

⁶⁴ U. Heyd, *Studies in Old Ottoman Criminal Law* (Oxford, 1973), p. 122 (art. 103).

⁶⁵ R. C. Jennings, "Loans and Credit in Early 17th Century Ottoman Judicial Records," *Journal of the Economic and Social History of the Orient*, 16 (1973), pp. 168-216.

⁶⁶ See Gerber, *op. cit.*, chap. 7.

⁶⁷ The kadi records of Bursa, Bursa Archaeological Museum, register B 135/350.

⁶⁸ Barkan and Ayverdi (see above, note 56) published a large survey of Istanbul *wakfs* from the year 1546, from which one learns that a sizable proportion of them contained as part of their properties also cash sums intended for lending. There can be no doubt that there existed in the city also *wakfs* whose capital consisted entirely of cash.

⁶⁹ Gökbilgin has shown that *wakfs* established as early as the 14th century, that is, before the final establishment of the Ottoman Empire, included among their

All this clearly shows that the credit institutions in the Ottoman city, far from being in a state of decay, developed in all probability much further than ever before in Islam. It is possible, however, that this conclusion is not equally applicable to all parts of the Empire. Thus it would seem that the Turkish culture area was more developed than the southern, Arab, part. Mandeville claims that "despite the burgeoning growth of the practice of the cash waqf north of the Cilician Gates, it was resorted to little if at all in the Arab lands,"⁷⁰ and Raymond arrived at a surprisingly similar conclusion concerning Egypt. On the whole, he claims, the credit institutions of Cairo were at a low ebb: "L'activité commerciale souffrait, comme d'ailleurs l'ensemble de l'économie, de l'absence de tout système de crédit."⁷¹ It is true that some money-lenders did exist, but their activity was sporadic and "au total, le prêt à intérêt restait une activité marginale et il ne pouvait jouer qu'un rôle limité dans l'économie du Caire."⁷²

Was it this paucity of credit institutions in Syria and Egypt which accounts for the fact that only here do we find Jewish *shulḥanim*? We cannot yet be sure, but Raymond says quite explicitly that in the absence of professional Muslim money-lenders, Jews and Copts acted in this capacity.⁷³

Against this background we can now understand why money-lending as an occupation was not of prime importance among the Jews of the Ottoman Empire. Since the credit institutions in the surrounding non-Jewish society were so developed, and recourse to it was so free of legal restraints, Jewish businessmen were certainly placed at a serious initial disadvantage. This disadvantage

assets sums of cash intended to be lent out. This goes far to prove that free lending of money on interest had developed in the Turkish culture area before the Ottoman Empire. But towards the 16th century the institution developed more substantially. Barkan published property records of deceased men of state who lived in Edirne between the middle of the 16th century and the middle of the 17th century, whence it is apparent that money-lending in Edirne in this period was no less frequent than in Bursa, and much more so than in 14th-century Edirne. See T. Göbilgin, *XV-XVI Asırlarda Edirne ve Paşa Livasi* (Istanbul, 1952), p. 273 (*wakf* no. 76); Ö. L. Barkan, "Edirne Askeri Kassamina Ait Tereke Defterleri (1546-1659)," *Belgeler*, 3 (1966), 31ff, and *passim*.

⁷⁰ Mandeville, *op. cit.*, p. 308.

⁷¹ A. Raymond, *Artisans et Commerçants au Caire au XVIIIe Siècle* (Damascus, 1973-74), p. 280.

⁷² *Ibid.*, p. 282.

⁷³ *Ibid.*

was further enhanced by the fact that a sizable portion of the credit was supplied to the public by the extremely popular and esteemed institution of *wakf*. Furthermore, in reading the more important responsa collections, one gets the clear impression that the number of references to interest is small, especially when compared to the Mediterranean trade.

Another proof is to be derived from the experience of the 17th-century city of Bursa. In thousands of estate records of people who died in that city we find full details of debts incurred by the deceased, as well as of loans given by them. Very often names are supplied as well. Now from these records it is apparent that Muslims and Christians were only rarely indebted to Jews, whereas Jewish indebtedness to others was much more frequent. The Turkish sources thus lend support to the conclusion derived from the Hebrew sources, that is, that far from supplying the surrounding society with the credit it needed, Jews were not even self-sufficient in this respect and often had to resort to non-Jewish lenders. Nor is there reason to assume that this relationship obtained in Bursa alone, for after all, it is perfectly compatible with the development of the Muslim credit institutions; and we have shown that this development characterized all the major urban centers in the Empire. It can be logically assumed, therefore, that the place of Jewish money-lending in those other centers was similar to the situation in Bursa.

Thus in the main centers of the Empire, where the indigenous credit institutions were highly developed, Jewish money-lenders had little room for activity, but in places where these institutions were less highly developed, Jewish money-lenders may have found attractive conditions. This may have been the situation on the island of Rhodes, and it is almost certainly what happened in Arab lands. Here, as was shown, two independent sources indicate the paucity of credit institutions, and responsa documents make it probable that precisely here the Jewish institution of money-lending was more advanced than in the northern, Turkish, area.